

AMENDED IN ASSEMBLY MAY 2, 2002

AMENDED IN ASSEMBLY APRIL 29, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2297

Introduced by Assembly Member Simitian

February 21, 2002

An act to add Chapter 15.5 (commencing with Section 22575) to Division 8 of the Business and Professions Code, relating to privacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2297, as amended, Simitian. Online Privacy and Disclosure Act of 2002.

Existing law does not regulate the security and confidentiality of consumer ~~nonpublic personal~~ *personal and identifying* information obtained by persons and entities engaged in online business transactions.

This bill would require an entity conducting business transactions on an Internet Web site that collects personal and identifying information from Web browsers to conspicuously post and fully comply with a privacy policy on its Web site that identifies the nature of the information that it collects from Web browsers, and with whom the entity may share the information. The bill would also require the entity to notify an affected individual in the case of a breach of security that results in the disclosure of personal and identifying information in a manner not covered by the privacy policy. The bill would make findings and declarations and declare the intent of the Legislature in this regard.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known as, and may be cited as, the Online Privacy and Disclosure Act of 2002.

SEC. 2. The Legislature finds and declares all of the following:

(a) Each person or entity that engages in online business transactions has a continuing and affirmative obligation to respect and uphold the privacy of customers and to protect the security and confidentiality of the customers' ~~nonpublic personal~~ *personal and identifying* information.

(b) It is the intent of the Legislature, in enacting this act, to provide enhanced consumer protections and remedies relative to the disclosure of ~~nonpublic personal~~ *personal and identifying* information obtained through online business transactions.

(c) It is the intent of the Legislature to require persons and entities engaged in online business transactions to provide customers with notice of their online privacy rights and improved and more meaningful choices as to whether ~~nonpublic personal~~ *personal and identifying* information may be disclosed, sold, or shared.

(d) It is the intent of the Legislature to protect the constitutionally guaranteed right to privacy of Californians who spend time or conduct business on the Internet, while also fostering the continued growth of electronic commerce.

SEC. 3. Chapter 15.5 (commencing with Section 22575) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 15.5. INTERNET PRIVACY REQUIREMENTS

22575. (a) An entity conducting business transactions on an Internet Web site that collects personal and identifying information from Web browsers shall do both of the following:

(1) Conspicuously post and fully comply with a privacy policy on its Web site that identifies the nature of the information that it collects from Web browsers, and with whom the entity may share the information. The privacy policy shall establish a process for an

1 individual to review and request changes to his or her personal *and*
2 *identifying* information that is collected in this manner. An
3 historical record of changes to the privacy policy shall also be
4 posted.

5 (2) In the case of a breach of security that results in the
6 disclosure of personal and identifying information in a manner not
7 covered by the privacy policy, the entity shall notify each affected
8 individual of the security breach, of the type of information that
9 was improperly disclosed, and to whom, if known, the information
10 was improperly disclosed.

11 (b) ~~The~~ *In addition to any other rights or remedies available*
12 *at law or in equity, the* failure of an entity to comply with this
13 section, *including a disclosure that is not in compliance with the*
14 *entity's posted privacy policy,* shall constitute an unfair business
15 practice for purposes of Section 17200.

